



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,597	08/04/2000	Lawrence W. Yonge III	04838-064001	2153

7590 07/03/2002

Fish & Richardson P C  
225 Franklin Street  
Boston, MA 02110-2804

[REDACTED] EXAMINER

KWOH, JASPER C

ART UNIT	PAPER NUMBER
2663	

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

7W

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/632,597	YONGE III ET AL.
Examiner	Art Unit	
Jasper Kwoh	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 04 August 2000.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4 and 9-12 is/are rejected.

7) Claim(s) 5-8 and 13-15 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement filed 3/6/01 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein for the other documents has not been considered. It is unclear which version of the application 09/455,186 should be included since the specification has been amended. Document AG appears to be the wrong document. Documents AF and AH should be referred to as patents. Copies for the AI-AM references should be submitted.

### ***Specification***

2. The disclosure is objected to because of the following informalities: application numbers and attorney's docket numbers such as ones on page 13 and page 15 should be updated and the boxes appearing on page 13 should be removed.

Appropriate correction is required.

3. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-4, 9 and 11-12 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schenkel.

Regarding claims 1 and 9, Schenkel discloses a method and unit comprising associating one of multiple priority levels with a transmission (i.e. col. 11, ll. 47-68; high priority packets train and low priority packet train) and controlling the amount of time the transmission occupies the medium based on the associated priority level (i.e. col. 11, ll. 47-68, col. 25, ll. 22-34, because if high priority always has access, then the low priority packets may never have access, therefore there is an EOR(0) to control the amount of time high priority has access to the medium and amount of time low priority has access to the medium).

Regarding claims 3 and 11, Schenkel discloses maintaining a frame length limit for all of the priority levels and ensuring that limit is not exceeded (i.e. col. 11, ll. 47-68; every priority level packets have limit frame length access, and attention is paid to make sure they do not exceed the length assigned to make sure other lower priorities packets will also have access sometimes).

Regarding claims 4 and 12, Schenkel discloses transmission of frames (i.e. fig. 19, frame i-2 to frame i+2) and control of the medium (i.e. fig. 19; high priority has control of the medium at high priority round and low priority packets have control during low priority rounds).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schenkel in view of Shaffer et al.

Schenkel discloses maintaining a frame length limit for all of the priority levels and ensuring that limit is not exceeded (i.e. col. 11, ll. 47-68; every priority level packets have limit frame length access, and attention is paid to make sure they do not exceed the length assigned to make sure other lower priorities packets will also have access sometimes.) Schenkel does not specifically disclose not maintaining a frame length limit for highest of priority level. However, Shaffer et al. teaches that a higher level will preempt the transmission of lower priority level. Therefore, it would have been obvious

to an ordinary person skilled in the art at the time of the invention to realize that there is no need to have a limit for highest priority because it preempt all other transmissions as taught by Shaffer et al. with the method and system of Schenkel in order to ensure the highest priority packets will always get the destination the fastest.

***Allowable Subject Matter***

9. Claims 5-8 and 13-15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weizman is cited to show methods of collision control in CSMA LAN; Schrader et al. is cited to show a communication network having a dormant polling protocol; Pyhalammi is cited to show a method for assigning priority to traffic between LAN interconnected via a backbone network; and Crisler et al. is cited to show time slot allocation method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasper Kwoh whose telephone number is (703) 305-0101. The examiner can normally be reached on Monday-Friday.

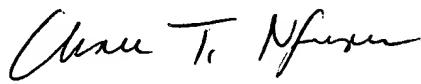
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703) 308-5340.

The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Jasper Kwoh  
June 29, 2002



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600